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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/925,343	08/09/2001	Gerd Jakob Ernst Scheller	CH 000016	4400
65913	7590	09/07/2007		
NXP, B.V. NXP INTELLECTUAL PROPERTY DEPARTMENT M/S41-SJ 1109 MCKAY DRIVE SAN JOSE, CA 95131			EXAMINER ELAHEE, MD S	
			ART UNIT 2614	PAPER NUMBER
			NOTIFICATION DATE 09/07/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ip.department.us@nxp.com

## Office Action Summary

Application No.

09/925,343

Applicant(s)

SCHELLER ET AL.

Examiner

Md S. Elahee

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2007.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. This action is responsive to an amendment filed on 06/15/2007. Claims 1 and 3-7 are pending. Claim 2 has been previously cancelled.

### ***Response to Arguments***

2. Applicant's arguments filed on 06/15/2007 Remarks have been fully considered but are moot in view of the new ground(s) of rejection which is deemed appropriate to address all of the needs at this time.

### ***Objections to Specification***

3. The disclosure of the specification filed on 08/09/2001 is objected to because of the following informalities: the specification does not have the preferred layout. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

### **Arrangement of the Specification**

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

- (a) TITLE OF THE INVENTION.
- (b) CROSS-REFERENCE TO RELATED APPLICATIONS.
- (c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
- (d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT

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- (e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC (See 37 CFR 1.52(e)(5) and MPEP 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text are permitted to be submitted on compact discs.) or  
REFERENCE TO A "MICROFICHE APPENDIX" (See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.)
- (f) BACKGROUND OF THE INVENTION.
  - (1) Field of the Invention.
  - (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
- (g) BRIEF SUMMARY OF THE INVENTION.
- (h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
- (i) DETAILED DESCRIPTION OF THE INVENTION.
- (j) CLAIM OR CLAIMS (commencing on a separate sheet).
- (k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
- (l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

Appropriate correction is required.

### *Claim Rejections - 35 USC § 103*

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 1 and 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Nakamura et al.** (U.S. 6,529,714) and in view of **Donnelly** (U.S. 5,531,365).

Regarding claims 1 and 6, **Nakamura** teaches a radio communication equipment [i.e., portable electronic mobile phone apparatus] whose housing is provided with a housing part that is constructed as a lid [i.e., lever element], which is integrally arranged in a wall of the housing and is arranged to cover at least partly a battery pack (abstract; fig.1, 2; col.2, lines 54-65).

However, **Nakamura** does not specifically teach the lever element being arranged to bend a material of lower hardness, external to the portable electronic apparatus, by way of a leverage effect, wherein the material of lower hardness includes a bottle cap. **Donnelly** teaches

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the belt clip [i.e., lever element] being arranged to bend a material of lower hardness, external to the portable electronic apparatus, by way of a leverage effect, wherein the material of lower hardness includes a bottle cap (fig.1-10; col.5, lines 12-18, 44-67, col.6, lines 1-22, 58-67). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify **Nakamura** to incorporate the lever element being arranged to bend a material of lower hardness, external to the portable electronic apparatus, by way of a leverage effect, wherein the material of lower hardness includes a bottle cap in **Nakamura's** invention as taught by **Donnelly**. The motivation for the modification is to do so in order to provide a lever element incorporating a bottle cap opener such that a user can enjoy the benefit of using the lever element for multipurpose use.

Regarding claim 5, **Nakamura** teaches that the lever element is constructed as an angled metal plate so as to cover a battery pack (fig.1; col.2, lines 54-65).

Claim 7 is rejected for the same reasons as discussed above with respect to claim 1. Furthermore, **Nakamura** teaches a lid [i.e., lever element] which offers inherently protection against shocks and pressure and also protects the accumulator (abstract; fig.1, 2; col.1, line 66, col.2, line 7, col.2, lines 54-65, col.3, lines 23-29, 48-54).

8. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Nakamura et al.** in view of **Donnelly** further in view of **Fuchs et al.** (U.S. 3,870,184).

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Regarding claim 3, **Nakamura** teaches the lever element is arranged to inherently open battery storage recess [i.e., closures] and is connected to the housing (fig.1, 2; col.2, lines 54-65, col.4, lines 19-24, 32-39).

However, **Nakamura** in view of **Donnelly** fails to teach metal closures. **Fuchs** teaches metal closures (abstract; col.1, lines 60, 61). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify **Nakamura** in view of **Donnelly** to allow metal closures as taught by **Fuchs**. The motivation for the modification is to have doing so in order to increase the hoop strength.

9. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Nakamura** et al. in view of **Donnelly** further in view of **Savovic** et al. (U.S. 5,260,146).

Regarding claim 4, **Nakamura** in view of **Donnelly** fails to teach that the lever element is made of metal and/or ceramic. **Savovic** teaches that the lid [i.e., lever element] is made of metal and/or ceramic (col.3, line 8). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify **Nakamura** in view of **Donnelly** to allow the lever element being made of metal and/or ceramic as taught by **Savovic**. The motivation for the modification is to have doing so in order to connect the anode to the positive terminal.

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*Conclusion*

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Md S. Elahee whose telephone number is (571) 272-7536. The examiner can normally be reached on Mon to Fri from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Md. Shafiul Alam Elahee*

MD SHAFIUL ALAM ELAHEE

Examiner

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August 30, 2007